BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	WC Docket No. 05-337
Universal Service Seeking Comment	)	
on the Merits of Using Auctions to	)	
Determine High-Cost Universal	)	CC Docket No. 96-45
Service Support	)	

COMMENTS OF THE MONTANA TELECOMMUNICATIONS ASSOCIATION, OREGON TELECOMMUNICATIONS ASSOCIATION SMALL COMPANY COMMITTEE AND THE WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION

May 31, 2007

INTRODUCTION

On the same date that the Federal-State Joint Board on Universal Service ("Joint Board") released its Recommended Decision proposing an interim high cost universal service fund solution,[1] the Joint Board called for comments on more comprehensive means for addressing long term high cost universal service reform.[2] Of the subjects set out for comment, these Comments will address the issues of "identical support" and the use of reverse auctions.

Members of the Montana Telecommunications Association ("MTA"), the Oregon Telecommunications Association Small Company Committee ("OTASCC") and the Washington Independent Telephone Association ("WITA") are rural telephone companies as defined by the Telecommunications Act of 1996 and the Federal Communications Commission's implementing rules. They provide service to some of the most remote and sparsely populated areas of the states of Montana, Oregon and Washington.

The members of MTA participating in these Comments are: 3 Rivers Telephone Cooperative, Blackfoot Telephone Cooperative, CenturyTel of Montana, Frontier Communications, Hot Springs Telephone Company, Lincoln Telephone Company, Range Telephone Cooperative, and Southern Montana Telephone Company.

The members of the OTASCC participating in these Comments are: Asotin Telephone Company d/b/a TDS Telecom, Beaver Creek Cooperative Telephone Company, Canby Telecom, Cascade Utilities, Inc., CenturyTel of Eastern Oregon,[3] CenturyTel of Oregon,[3] Colton Telephone Company, Eagle Telephone System, Inc., Gervais Telephone Company, Helix

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[1] In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service, WC Docket No. 05-377, CC Docket No. 96-45, Recommended Decision, (Released May 1, 2007) ("Recommended Decision").
[2] Public Notice, FCC 07J-2 (Released May 1, 2007) ("Notice").
[3] While technically not members of OTASCC, CenturyTel of Eastern Oregon and CenturyTel of Oregon are rural companies and join in these Comments.

Telephone Company, Home Telephone Company d/b/a TDS Telecom, Malheur Telephone Company, Midvale Telephone Exchange Incorporated, Molalla Communications, Inc., Monitor Cooperative Telephone Company, Monroe Telephone Company, Mt. Angel Telephone Company, Nehalem Telecommunications, Inc., North-State Telephone Co., Oregon-Idaho Utilities, Inc., Oregon Telephone Corporation, People's Telephone Co., Pine Telephone System, Inc., Pioneer Telephone Cooperative, Roome Telecommunications Inc., St. Paul Cooperative Telephone Association, Scio Mutual Telephone Association, Stayton Cooperative Telephone Company and Trans-Cascades Telephone Company.

The members of WITA participating in these Comments are: Asotin Telephone Company d/b/a TDS Telecom, Beaver Creek Telco d/b/a Timberline Telecom, CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., CenturyTel of Inter-Island, Inc., Ellensburg Telephone Company d/b/a FairPoint Communications, Hat Island Telephone Company, Hood Canal Telephone Co., Inc. d/b/a Hood Canal Communications, Inland Telephone Company, Kalama Telephone Company, Lewis River Telephone Company, Inc. d/b/a TDS Telecom, Mashell Telecom, Inc. d/b/a Rainier Connect, McDaniel Telephone Co. d/b/a TDS Telecom, Pend Oreille Telephone Company, Pioneer Telephone Company, St. John Co-operative Telephone and Telegraph Company, Tenino Telephone Company, The Toledo Telephone Co., Inc., Western Wahkiakum County Telephone Company, Whidbey Telephone Company and YCOM Networks, Inc d/b/a FairPoint Communications.

THE IDENTICAL SUPPORT RULE SHOULD BE ABANDONED

The Joint Board is correct that the identical support rule, under which a competitive ETC receives support on the same per-line amount that the incumbent receives, should be abandoned.

In the Recommended Decision, the Joint Board notes that the identical support rule "seems to be one of the primary causes of the explosive growth in the fund."[4] The Joint Board noted that the growth of support for competitive ETCs has gone from fifteen million dollars in 2001 to almost one billion dollars in 2006 and is projected to reach 1.28 billion dollars in 2007.[5] The Joint Board is correct that the increase in the size of the high cost universal service fund in recent years has been due to the amounts attributable to competitive ETCs.

As the Joint Board is aware, incumbent ETCs provide detailed cost information supported by Part 36/69 cost studies to provide the basis for their draw from the federal universal service fund. It appears to be appropriate to have competitive ETCs provide some basis for their draw from the high-cost universal service fund.

Since many competitive ETCs advocate the use of forward-looking economic cost models,[6] it may be appropriate for those companies to use the forward-looking economic cost models they advocate as a basis of developing competitive ETC cost support. It is well accepted that the current non-rural proxy model does not work well for estimating rural incumbent company costs. In fact, the FCC's own high cost model produces cost estimates for some rural companies that are higher than the costs produced by embedded cost studies. However, such forward-looking economic cost models may be appropriate for competitive ETCs, particularly wireless ETCs.

The Joint Board inquired whether additional principles should be adopted under the authority in 47 U.S.C. §254(b)(7).[7] MTA, OTASCC and WITA urge that strong consideration

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[4] Recommended Decision at ¶12.
[5] Recommended Decision at ¶4.
[6] See, e.g., Reply Comments of CTIA-The Wireless Association® - Attachment entitled Controlling Universal Service Funding and Promoting Competition Through Reverse Auctions submitted in this docket on or about November 8, 2006.
[7] Notice at ¶7. Technically, the Notice treats this as a separate issue from reverse auctions. However, MTA, OTASCC and WITA see the two concepts as linked.

be given to limiting the number of ETCs in some areas. Recently, Chairman Martin responded to a number of questions raised by Congressman Markey, Chair of the House Subcommittee on Telecommunications and the Internet, in his April 2, 2007, letter to Chairman Martin.[8] One of the subjects addressed was the number of competitive ETCs in an area. Chairman Martin's response was, in part, as follows:

> I believe we need to limit the ability of rural consumers to receive support for multiple phones as well. Indeed, I agree that the current Commission policies result in 'the subsidies generated by the Commission's universal service rules now support[ing] multiple wireless networks providing services that for many consumers are effectively a complement, not a substitute, to the service already offered by the subsidized wireline incumbent local exchange carrier.'...I am concerned about the Commission's policy of using universal service support as a means of creating government-managed 'competition' for phone service in high-cost areas. I am hesitant to subsidize multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. Such a policy could also make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in a rural area, leading to inefficient and/or stranded investment and a ballooning universal service fund.[9]

In particular, in areas where high cost support on a per-line basis is quite high, the principle could be established that such markets can support no more than one network of each major technology. Thus, under a market approach where the incumbent support is thirty dollars per month per line or higher,[10] a limitation of one ETC per wireline technology and one ETC per wireless technology could be put in place. For those areas where there is currently more than one ETC of a particular technology, a comparative hearing could be used to determine the ETC for that classification.

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[8] Chairman Martin's response is not dated, but appears to have been issued around May 14, 2007 ("Martin Response").
[9] Ibid.
[10] This threshold is illustrative.

On this subject, the Joint Board inquires whether modification of the identical support rule or adoption of additional principles that could limit the number of ETCs in a high cost area would be consistent with the principle of competitive neutrality.[11] MTA, OTASCC and WITA take the position that so long as there is the opportunity for one wireline and one wireless ETC to be designated in a particular area, the program would be consistent with the principle of competitive neutrality. As Chairman Martin stated in his response to Congressman Markey:

> Section 214(e) states that '[a] common carrier designated as an eligible telecommunications carrier...shall be *eligible* to receive universal service support in accordance with section 254.' Neither section 214 nor section 254 specify a specific amount of universal service support." (Emphasis in the original.)[12]

In other words, limiting the number of ETCs in a high cost area, or limiting the amount of support ETCs receive does not violate the principle of competitive neutrality since all ETCs are *eligible* to receive support based on each carrier's level of support.

THE USE OF REVERSE AUCTIONS HAS NOT YET BEEN PROVEN TO BE AN EFFECTIVE MECHANISM

This past fall, the Joint Board sought comment on the use of reverse auctions. MTA, OTASCC and WITA participated in those comment rounds, submitting both opening and reply comments. In those comments, MTA, OTASCC and WITA pointed to the substantial administrative problems that exist with reverse auctions. Many other parties filed similar comments. Particularly instructive on the complex administrative problems associated with the use of reverse auctions is the paper presented by Professor Dale E. Lehman through the National Telecommunications Cooperative Association. That paper is entitled "The Use of Reverse

[11] Notice Seeking Comment, FCC 07J-2 (Released May 1, 2007) at ¶7.
[12] Martin Response.

Auctions for Provision of Universal Service." Professor Lehman pointed out the numerous administrative issues associated with trying to implement a reverse auction concept.

Beyond the jungle of administrative problems, and more telling, is the question of whether reverse auctions will actually discourage investment in rural infrastructure. In the prior round of comments, both CoBank and the Rural Telephone Finance Cooperative filed comments on this topic.

CoBank pointed out that reverse auctions will have a negative affect on the cost of debt and availability of debt financing. CoBank commented as follows:

> Much of the theoretical appeal of reverse auctions is dissipated under the actual conditions under which universal service will be provided. Regulators will need more foresight than they would like. They will need to specify universal service requirements far enough into the future to allow for the required investment incentives. They will need to know more about the most efficient market structure (single COLR, multiple, which technology, etc.) than they would like.
>
> CoBank cautions the FCC on the use of auctions to determine high-cost universal service support funding (USF) to eligible telecommunications companies (ETCs) pursuant to Section 254 of the Communications Act of 1934. Reverse Auctions do not provide clarity in regard to federal cost recovery mechanisms to empower the best providers of basic and advanced telecommunications services in rural areas. Reverse auctions present more uncertainty because they are a risky approach to high-cost support, which will cause the cost of debt to increase. (Emphasis added.)[13]

The Comments of the Rural Telephone Finance Cooperative (RTFC) were just as much to the point. RTFC pointed out that it has more than 2 billion dollars in outstanding loans to rural providers. RTFC then stated its position on reverse auctions:

> Reverse auctions (competitive bidding) to determine high-cost universal service funding for incumbent rural local exchange carriers (RLECs) will discourage investment in the rural telecommunications infrastructure and result in lesser quality service to rural Americans. Such a high-cost support regime will cause lenders to reconsider lending into rural telecom space. (Emphasis added.)[14]

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[13] Comments of CoBank dated October 10, 2006 at p. 2.
[14] Comments of Rural Telephone Finance Cooperative dated October 10, 2006 at p. 2.

When two of the major finance institutions for rural infrastructure issue comments that reverse auctions will increase risk, and thereby increase the cost for rural infrastructure, and lessen the availability of funds to build rural infrastructure, those comments should be paid a great deal of attention. Without the substantial debt financing that CoBank and RTFC provide, rural infrastructure would not be nearly as robust as it is today.

IF REVERSE AUCTIONS ARE TO BE USED, THEN THEY SHOULD BE INTRODUCED SLOWLY

Many of the Commenters from this past Fall noted that given the number of potential problems with reverse auctions, if reverse auctions are to be used as a tool for limiting the size of the high-cost fund, reverse auctions should be introduced slowly and in targeted markets. Several Commenters suggested that if reverse auctions are to be used, they be used for determining a single wireless ETC in areas where multiple wireless ETCs may exist.[15] Even supporters of reverse auctions (which are limited in number) suggest a phased-in approach so that problems can be addressed.[16]

CTIA'S REVERSE AUCTION PROPOSAL IS DEFICIENT

The Joint Board specifically referred to CTIA's auction proposal as filed with their reply comments, seeking comment on that reverse auction proposal. The CTIA paper related to reverse auctions is more a discussion of the principles than a specific reverse auction proposal. For example, it discusses the use of various geographic areas and the pros and cons of each.

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[15] See, e.g., Comments of TCA dated October 10, 2006; Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies dated October 10, 2006 at p. 14-16.

[16] For example, the Comments of CTIA – The Wireless Association® suggest starting only with the larger ETC areas in apparent recognition of the potential serious effect of problems with reverse auctions may have on the more rural areas. See, also, Verizon's letter to the Joint Board dated February 9, 2007.

MTA, OTASCC and WITA believe that if reverse auctions are to be used, the geographic area must be related to the service area of the incumbent ETCs, be that the study area or a wire center by wire center basis.

The CTIA paper also talks about an approach for a "Winner-Takes-More" system where losing bids are not rejected, but are funded on a reduced level.[17] That concept does not translate very readily to a meaningful limitation on the size or the high cost universal service fund. If states are still free to continue to designate four, five, six, seven and more competitive ETCs for an area, the size of the high cost universal service fund will continue to expand.

The CTIA paper also suggests that auction results should be measured by comparison to forward-looking cost estimates.[18] Since there is yet to be a forward-looking economic cost model that has been recognized to be an accurate barometer of wireline cost in providing service to small, sparsely populated rural areas, that suggestion is highly unlikely to produce a reasonable or meaningful result by which to measure auction results.

CTIA's proposal is deficient.

CONCLUSION

MTA, OTASCC and WITA strongly urge the Joint Board to continue to move in the direction it has signaled with the elimination of the identical support rule.

MTA, OTASCC and WITA request that the Joint Board be very thorough in its consideration of reverse auctions. The Joint Board should be satisfied that all of the questions that have been raised by the commenters concerning administrative problems and the potential

[17] See, e.g., Controlling Universal Funding and Promoting Competition Through Reverse Auctions at p. 19.
[18] Ibid. at p. 28.

disincentive for investment in rural areas be fully addressed before a reverse auction proposal is adopted.

The concern that use of reverse auctions will discourage investment in rural areas is particularly on point. Recent Congressional hearings on the drop of the United States from twelfth place to fifteenth place in the world in terms of broadband penetration brought criticism from consumer groups against the FCC for its failure to address broadband penetration. The members of MTA, OTASCC and WITA have been very aggressive in building out broadband networks. A chart demonstrating selective, but representative, company efforts at broadband penetration is found in the attached Exhibit 1. In many cases, fully one hundred percent of the member companies' customers have broadband available to them.[19] Making a major change to the existing system through the use of reverse auctions that would discourage investment in rural infrastructure can only hurt the effort to make broadband services widely available.

Respectfully submitted this 31st day of May, 2007.

By: _____

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[19] In most cases, the infrastructure investment is recent and it will be many years before the debt undertaken to make the investment is paid off.

EXHIBIT 1
Selected Oregon Companies*

Company	Area Served (In Square Miles)	Number of Access Lines	Broadband Availability
A	106	7,562	100%
B	60	1,399	100%
C	184	293	68.26%**
D	65	671	99.8%
E	50	901	100%
F	52	3,660	100%
G	84	10,819	99+%
H	100	1,735	100%
I	760	774	86%
J	64	4,260	99.9%
K	1,304	14,747	100%
L	620	917	100%
M	30	640	100%
N	17	1,931	100%
O	1,762	8,699	90%
P	893	214	59%

*In addition, CenturyTel of Oregon and CenturyTel of Eastern Oregon together serve 69,448 access lines in the State of Oregon, of which approximately 81.4% have broadband access from CenturyTel.
**Construction will provide 100% coverage by end of 3rd quarter, 2007.

Selected Washington Companies***

Company	Area Served (In Square Miles)	Number of Access Lines	Broadband Availability
A	100	3,490	100%
B	120	3,096	100%
C	120	2,260	100%
D	110	1,191	100%
E	92	3,753	100%
F	283	650	85%
G	415	1,348	77%
H	212	4,343	62%
I	140	6,076	82%
J	463	3,022	97%

***In addition, CenturyTel of Washington, CenturyTel of Inter-Island and CenturyTel of Cowiche together serve 166,187 access lines in the State of Washington, of which approximately 86.4% have broadband access from CenturyTel.

Selected Montana Companies

Company	Area Served (In Square Miles)	Number of Access Lines	Broadband Availability
A	1,900	1,000	85%
B	6,255	16,676	97%
C	15,500	7.713	75%
D	16,500	23,450	85%
E	3,500	59,900	94%
F	1,250	1,065	96%
G	720	825	98%
H	3,000	8,150	96%